



UNDERSTANDING VEHICLE USE GUIDELINES CAN LIMIT LIABILITY

BY TOM BELL
SAFETY AND LOSS CONTROL SPECIALIST

State Risk Management (SRM) is responsible for the state's insurance programs, including the state's vehicle fleet. SRM covers all state departments except the University of Colorado system, which has a separate insurance program. Insurance for state vehicles is handled a bit differently than your own car insurance, so SRM has developed a Vehicle Use Guide to help state departments and employees understand how the state's coverage works.

SRM provides liability coverage for state vehicles. State employees driving state vehicles on official business are covered by the state's workers' compensation self-insurance program. Other passengers are covered pursuant to state personal injury protection (PIP) laws.

Collision coverage for state vehicles (physical damage to the state vehicle) is handled by State Fleet Management.

Operation of state vehicles is governed by State Fleet Management rules, which are available on the Department of Personnel and Administration Central Services website at www.state.co.us/dpa (Under Central Services). State vehicles may be used for official state business only, and not for personal purposes. All drivers must have a valid driver's license. State vehicles may not be driven by any unauthorized person. All passengers (for example, employees, clients, inmates, or students) must be connected to official state business.

SRM advises that state vehicles can only be driven by state employees or by authorized volunteers as defined by the Governmental Immunity Act. An unauthorized driver may have to pay for any accident out of their own pocket.

Employees using personal vehicles for state business must have their own car insurance. If the personal vehicle is used often for state business, the employee may need to get additional business-use liability coverage at

Please see "Vehicle Use Guidelines" on page 9

OUT-OF-STATE EMPLOYEES - ARE THEY COVERED UNDER WORKERS' COMP?

BY TOM BELL
SAFETY AND LOSS CONTROL SPECIALIST

The State of Colorado has employees all over Colorado, and also in other states and even in other countries. There are currently 100 state employees who are working outside of Colorado. Make sure your out-of-state employees are properly covered for workers' compensation.

Before 1988, the state had reciprocal agreements with many other states, in which they would honor Colorado's workers' compensation coverage for employees from Colorado employers who were working in other states. Except an agreement with Wyoming, Colorado does not currently have reciprocity with other states.

Until recently, coverage of out-of-state employees was not a problem. Other states generally allowed Colorado employees to work in their states with Colorado workers' compensation coverage. But at least one other state is now toughening up its enforcement of workers' compensation coverage and requiring any Colorado employers with employees in their state to purchase workers' compensation coverage in their state.

Here are some guidelines to use to determine whether you need out-of-state coverage:

- Employees who are temporarily out of state for travel do not require out-of-state coverage.
- Employees who are out of state on a temporary assignment of less than 6 months may not require out-of-state coverage. Colorado law allows temporary out-of-state work for up to 6 months per CRS 8-41-204. Other states will generally allow these temporary assignments without requiring purchase of workers' compensation coverage for their state.
- Employees who are permanently out-of-state, living and working outside Colorado, require workers'

Please see "Are They Covered" on page 9

BULLETIN NEWS BRIEFS

- A Guide to Understanding the Layoff Process is now online. DHR created this guide to help answer basic questions about the process, including the state's responsibilities as an employer and an employee's rights in the layoff process.
 - Governor Owens, through an Executive Order, announced the formation of the Governor's Commission on Civil Service Reform. This Commission will examine Colorado's current civil service system and recommend possible Constitutional and statutory measures for consideration by the General Assembly and Colorado voters. The bipartisan commission will be co-chaired by former Colorado Governor Dick Lamm and the executive director of the Colorado Department of Personnel and Administration, Troy Eid. The Executive Order and an accompanying press release are available online.
 - The new draft survey process for the 2004 annual compensation survey has been published. Two meet and confer meetings were held with DHR on April 2 for state employees to discuss the selection and the utilization of the surveys. Any written comments must be received by April 11 and may be sent to job.eval.comp@state.co.us.
 - The Employee Benefits unit encourages all state employees who waived state medical coverage for themselves or their dependents to participate in its online survey for employees who waived state medical coverage. The survey is designed to gather quantifiable data rather than commentary, and additional employee comments can be sent directly to Employee Benefits at benefits@state.co.us. Employee Benefits will be posting survey results in April.
 - Sam's Club is offering all state employees a 50% discount on membership fees. This offer is valid through 4/11/03.
 - Job Evaluation & Compensation PCP scheduled for May 8 – 9. The DHR Total Compensation/Systems unit will present the two-day personnel certification course (PCP) in Job Evaluation and Compensation on May 8 and 9, 2003, in Denver. The class will begin at 9:00 a.m. on Thursday, May 8th and will be held in Room 220 of the Centennial Building at 1313 Sherman Street. The course will finish by 3:00 p.m. on Friday the 9th. Attendees should call or email Judi Karg at 303-866-2391 or judi.karg@state.co.us to reserve a slot in the class. Other questions should be referred to Don Fowler at 303-866-4250 or don.fowler@state.co.us.
 - As a result of a February 18, 2003, public hearing, rules and procedures changes have been adopted regarding the Senior Executive Service (SES). These changes will be effective May 1(rules) and May 30 (procedures), 2003. Highlights of the changes are available online.
 - The reception for the Governor's STAR Awards winners will be held on May 8 at the Adam's Mark Hotel. This is in conjunction with Public Employee Recognition Week (May 5-9). Registration for and information about the luncheon are available on the DPA website: www.state.co.us/dpa.
 - The Workforce Report FY 2002 has been published. It contains important demographic information and historical data about the state personnel workforce. The report also closely tracks key trends affecting the workforce, such as turnover and retirement projections. After reviewing the document please leave your feedback on the Workforce Report Survey. Both are available online.
 - Updated information on state employees and active military service has been developed. The temporary policy developed to assist state employees facing financial hardship due to military service has been revised. The intent of the policy is to allow temporary relief for state employees who are called to military active duty in support of military operations designated by the President in the war against terrorism or other military operations. The policy will be in place until further notice. DHR has also completed a guide – Benefits Options for State Employees on Active Duty Military Leave. The guide will be available on the Division of Human Resources website the week of April 7, 2003. Watch for it.
 - DHR is working on technical guidelines on records management, including information about personnel files, payroll files, exam files, etc. DHR feels as though such guidelines will be a helpful tool to all departments. These guidelines should be ready for department use and on our website no later than June 2003. Please e-mail any ideas or suggestions to liane.vonfeldt@state.co.us.
- To learn more about these and other personnel, risk management and benefits policies and issues, go to www.state.co.us/dhr and be sure to check the "News Archive" section under Quick Links.

PCP TRAINING FOR PERSONAL SERVICES CONTRACTS BEING UPDATED

The PCP Personal Services Contracts training is currently being revamped. Based on customer feedback received from evaluations over the past year, DHR will begin in June 2003 offering two levels of Personal Services Contracts PCP training – Level 1 and Level 2. Below are descriptions of each class and a schedule.

Level 1 is a basic training on personal services contracts. Topics will include what you need to know to get started in reviewing personal service contracts, the requirements for HR professionals, an overview of statutes and procedures, flow charts of the contract review process, and the basics for determining an independent contractor. The course is approximately 6 hours.

June 16 – Room 318
August 21 – Room 220
November 20 – Room 220

All classes are from 9:00 a.m. – 4:00 p.m. at 1313 Sherman Street.

Level 2 is an advanced training focusing on contract requirements. Topics will include in-depth review of

personal services contracts, including required language, the required elements of a Cost Comparison and how to complete the form, and an introduction to performance-based contracting and outsourcing. The course is approximately 4.5 hours.

July 17
September 18
October 28

The July 17 and September 18 classes are from 9:00 a.m. – 2:00 p.m. at 1313 Sherman Street, Room 220. The October 28 class TBD after the HR Network Meeting.

Both levels of training are required for HR professionals seeking PCP Certification. For those professionals currently certified in PCP Contracts, you will have one year to complete Level 2 Advanced training to retain current certification.

To reserve a seat please contact Judi Karg at judi.karg@state.co.us or 303-866-2391. Space is limited.

Workforce and
Staffing
Consultants

WHAT'S NEW WITH WORKFORCE AND STAFFING CONSULTANTS



ADS TRAINING

Street in Room 142.

The Applicant Data System (ADS) was designed to support the selection process, and the DPA Division of Human Resources (DHR) offers ADS training classes to help state HR professionals make the most of the different functions and options of ADS.

DHR offers two training classes – ADS Data Entry Training and ADS Full Training. Below are descriptions of each class to help you determine which level of training is appropriate for how you and your department intend to make use of ADS and a schedule for the next four months.

ADS Data Entry Training – A half-day training class to teach the entry of applications.

April 15
March 20
June 17
July 15

Classes are from 8:45 a.m. – 12:00 p.m. at 1375 Sherman

ADS Full Training – A two-day training class that covers the full range of functions and options of ADS. This class is not designed to teach the selection process, but it covers the operation of the automated system and how it supports the process. Before being given access to the system, students will be required to successfully complete a performance exam to demonstrate their understanding of how to use the different functions and options of ADS.

April 7 & 8
May 13 & 14
June 10 & 11
July 8 & 9

Classes are from 8:45 a.m. – 4:00 p.m. at 1375 Sherman Street in Room 142. There is a one-hour lunch break. Lunch is not provided.

If have questions about the classes or would like to register for a class, please contact Dennis Thompson at 303-866-4642 or dennis.thompson@state.co.us.

FAMILY/MEDICAL LEAVE CORNER

COMPILED & EDITED BY LAURIE BENALLO
STATE FMLA COORDINATOR

Please share this information with FMLA Coordinators, payroll/benefits staff, and any others who work with the FMLA.

UPDATE ON FMLA AND INSURANCE BENEFITS

Federal regulations governing the Family and Medical Leave Act of 1993 contain specific requirements regarding the continuation and restoration of benefit coverage during, and upon return from, family/medical leave. The benefits subject to restoration include health (medical and dental), life, and employee-paid, long-term disability.

According to US Department of Labor's FMLA regulations, an employee returning from FMLA leave must be restored immediately to the same level of benefit coverage as prior to taking the leave. This applies even if the employer must pay the employee's portion of the premiums in order to ensure restoration. The regulations also allow cancellation of coverage for an employee's failure to pay premiums as long as benefits are restored upon the employee's return from leave. Cancellation for failure to pay premiums can be retroactive as long as: (1) a 30-day grace period is given, and (2) a 15-day notice of cancellation is mailed prior to cancellation of coverage.

With insurance premiums now being collected in the same month that coverage is effective, it is critical that grace periods and cancellation notices are applied correctly. The premium due date for employees on unpaid leave under the FMLA is the first of the month. If the grace period or cancellation notice requirements are not met, the agency cannot cancel the coverage for that month regardless of whether a premium payment is made by the employee. Because the state's benefit carriers will promptly terminate coverage if a full premium is not received, the agency will be required to cover the employee's share of the premium to maintain the coverage.

FMLA allows cancellation to occur retroactive to the last month for which full payment was received. However, HB02-1353 restricts retroactive termination of coverage, making the agency responsible for the full premium (both state and employee contributions) when the state does not provide timely notice of termination to the carriers. Providing a timely 15-day notice of insurance cancellation to employees is the key to avoiding full premium responsibility. Once coverage is terminated, the employee will be fully responsible for any claims during the lapse of coverage. Cancellation of coverage for non-payment is not a qualifying event under COBRA.

If an employee's coverage has been cancelled for non-payment, the regulations still require the employee to be restored to the same level of coverage upon return from leave. Restoration of benefits upon return from leave is also not optional on the part of the employee. When the employee returns, premiums are taken through normal payroll deductions. If the employee does not wish to continue coverage, the employee must take action to cancel coverage subject to the terms and limitations defined in the specific benefit plan.

For more information on FMLA notice requirements, contact Laurie Benallo at 303-866-4247. For information on canceling insurance and notification to carriers, contact Employee Benefits at 303-866-3434 or 1 800-719-3434.

DID YOU KNOW

Employers can avoid HIPAA violations when requiring medical certification under FMLA by requesting the information through the employee, using the medical certificate form, following the FMLA procedures, and observing confidentiality requirements.

ON THE LEGAL FRONT

Loomis v Honda of America (S.D. Ohio, Jan. 2003)

Facts: Loomis missed work on April 5 and 6, 2001. A medical certificate indicated the diagnosis was acute sinusitis, antibiotics prescribed, and incapacity from April 5th through 10th. During this time Loomis flew to Las Vegas where she married a co-worker. She did not have enough vacation leave to cover her absences on April 5th and 6th so when she returned to work on April 11th she requested a medical leave of absence for April 5th through 10th stating she had been ill the entire time. The request was granted. Later in April Loomis hurt her back and took leave beginning April 27th. The next day she held a wedding reception at which she danced. Two days later she went to the doctor who determined there was no serious health condition and gave her a medical certificate to that effect. Loomis altered the form so that it read she was re-ceiving continuing treatment. Based on the altered medical certificate, Honda approved the leave based. Loomis returned to work on May 2. A co-worker overheard Loomis talking about getting married while she was on medical leave and reported it. Honda's investigation found evidence that Loomis misrepresented the facts concerning her leave and terminated her employment. Loomis sued claiming her termination was retaliation for using FMLA leave.

Please see "On The Legal Front" page 11

MENTAL DISORDERS IN THE WORKPLACE: THE ECONOMIC IMPACTS OF BIOPSYCHOSOCIAL DISORDERS

BY JON RICHARD, PSYD
LICENSED PSYCHOLOGIST, CSEAP

Editor's Note: *This is the second article in a four-part series on mental disorders in the workplace. The first article appeared in the March 2003 issue.*

As discussed in the first article of this series, mental disorders (hereafter: Biopsychosocial Disorders, or BPSDs) are common throughout society, with approximately 20% of the US population suffering a diagnosable mental disorder in any given year, and approximately 5.4 % of the population experiencing a severe disorder. This article provides a brief overview of the financial impact of BPSDs on employers, highlighting the economic benefits of appropriate supervisor/manager response to affected employees.

Among the 10 leading causes of disability worldwide, four are mental disorders, and Major Depression leads the entire disabilities list (National Institutes of Mental Health). Individuals with BPSDs are heavy utilizers of medical care, averaging twice as many visits to primary care physicians as those without BPSDs (American Psychological Association, 2002). Up to half of all visits to primary care physicians are directly due to BPSDs or to problems exacerbated by BPSDs. As a reminder of how artificial the wall is between "physical" and "mental" health, it has been shown that individuals with Major Depression are four times more likely to suffer a heart attack, with its attendant costs, disability, and risk of premature death, than those without Depression (Iowa Department of Public Health). In fact, BPSDs can be as functionally disabling, or more so, than other chronic illnesses such as lung problems, hypertension, or diabetes.

The economic impact of BPSDs is awe inspiring. As far back as 1990, the U.S. Department of Health and Human Services (HHS) estimated the total cost of BPSDs at \$103.7 billion for 1985. That figure included an estimate of \$42.5 billion for direct treatment and \$47.4 billion for the indirect costs associated with reduced productivity and missed work, among others, and \$4.5 billion for related costs, such as time spent by family members to assist the person with BPSD (Geballe, 2001). The Surgeon General's office (1999) puts the 1990 indirect (such as sick days and reduced productivity) costs of BPSD at almost \$79 billion (note the increase as compared to 1985 indirect costs, above). Geballe reports that "persons with major depressive disorder were 27 times more likely to miss work than

those without this disability...persons with panic disorders were 21 times more likely to miss work..." Kessler and Frank of Harvard Medical School (1997) conclude that: "...the effects of psychiatric disorders on lower rates of labour force participation, reduced work hours, and lower earnings...are especially important in that they represent costs both to workers and their employers...it might be in the interests of employers to develop outreach programmes for their psychiatrically impaired employees." The economic impacts of specific BPSDs, such as Depression, Panic Disorder, Post-Traumatic Stress Disorder, and others, will be reported and discussed in upcoming parts of this series.

The good news is that mental health interventions (counseling, psychotherapy, and psychoactive medications, or combinations) are substantially effective in improving employee productivity and employee quality of life, and in reducing costs to the employee, the employer and to society at large. Cost offset studies show a decrease in total health care costs following mental health interventions even when the cost of the mental health intervention itself is included. Cost offset also increases over time because individuals receiving quality treatment continue to decrease their overall use of the health care system.

For example, a three year study of over 10,000 Aetna beneficiaries showed that after initiation of mental health treatment, the medical costs of employees with BPSDs dropped continuously for over 36 months. Similarly, a review of 58 studies of the effectiveness of psychotherapy for depression found that after depressed individuals received treatment, 77% scored significantly better on evaluations than those who did not receive treatment (American Psychological Association, 2002). As Geballe (2001) reports: "Timely and appropriate mental health treatment provides the obvious benefit of reducing morbidity and mortality and increasing work productivity among persons with mental illnesses... In addition, however, recent research suggests that effective treatment of mental illness may result in substantial savings in non-mental health costs. Conversely, restrictions on access to mental health services can increase costs for non-mental health services, as well as result in increased sick days."

Whether your employee is the person with BPSD or a

Please see "Economic Impacts" page 10

COMPENSATORY TIME IN LIEU OF CASH PAYMENT FOR OVERTIME WORK: WHAT DEPARTMENTS NEED TO KNOW

BY SUE HUANG
DHR COMPENSATION SPECIALIST

As all of us are trying to cope with budget reductions, please remember that we must still comply with the Fair Labor Standards Act (FLSA). There has been inquiry into the possibility of issuing policies requiring compensatory time in lieu of cash payment for overtime work.

There are conditions that the state must comply with in order to use compensatory time in lieu of overtime payment. The FLSA allows compensatory time for overtime work so long as it is provided for under some employment agreement or memorandum of understanding.

The agreement or understanding concerning compensatory time off must be made between a department and the individual employee and must be reached before the performance of work. This agreement or understanding with individual employees need not be in writing, but a record of its existence must be kept.

Because a record is required, departments are advised to have a written agreement on file for each individual non-exempt employee.

No agreement or understanding is required with respect to employees hired prior to April 15, 1986, if the department had a regular practice in effect on April 15, 1986, of granting compensatory time off in lieu of overtime pay. No agreement or understanding is required if an employee accepted compensatory time in lieu of cash payment at the time of accepting employment with the state. Again, your best record is the individual written agreement on file.

Please ensure that your department meets the above conditions before applying a department-wide comp time policy to all of your eligible employees. If you have questions, contact Sue Huang at 303-866-4219 or sue.huang@state.co.us.

457 PLAN NOTICE OF ELECTION

Pursuant to CRS 24-52-102, the 457 Deferred Compensation Committee (governing body) will be conducting an election to fill a seat on the committee. The seat shall be for a four-year term beginning July 1, 2003 and ending June 30, 2007. If more than one candidate applies, the candidate receiving the most votes will fill the vacant seat. Employees interested in seeking election should call the Employee Benefits Unit at 303-866-3609 to request an election packet.

Election Requirements

To seek candidacy you must obtain the election packet that contains a complete set of election rules, nomination petition and biographical sketch form. Only active state employees (not retired) who participate in the plan, whether or not currently deferring to the deferred compensation plan, may seek candidacy.

In order to qualify as an eligible candidate you must obtain nominating signatures of five plan participants. Signatures must be obtained on nomination petitions provided in the election packets.

Signed petitions and biographical sketches must be received by the Employee Benefits unit **no later than**

4:00 p.m., Friday, May 16, 2003.

Ballots will be mailed to all Plan participants the week of June 2, 2003. There also may be the opportunity to vote via the website at www.colorado457.com.

Committee Members as of March 1, 2003

Elected members include: F. David Loomis, Department of Revenue, Committee Chairman; Billy Kwan, Public Utilities Commission, Vice Chair; Joann Vondracek, Department of Treasury (**Term expiring June 30, 2003*); and, Richard Moore, Department of Corrections.

Statutory members include: Arthur Barnhart, State Controller; Douglas Windes, Department of Treasury; Ben Stein, Deputy Treasurer (Governor's Appointee for the 401(a) DCP); Senator Richard Mutzebaugh; and, Representative Dale Hall.

Effective July 1, 2002, the 457 Deferred Compensation Committee was granted additional fiduciary responsibility over the 401(a) Elected and Appointed Officials Defined Contribution Pension Plan (DCPP).

As a reminder, the 457 Committee meets monthly on the second Thursday of the month at 1313 Sherman Street, Room 220. Please contact Vince Plymell at 303-866-3609 for more information on meeting dates, times and locations, as they are subject to change. Also visit the 457 website at www.colorado457.com for agendas and approved meeting minutes.

COPING IN UNCERTAIN TIMES

BY LEIGH BURNS, LPC, CACH
CSEAP COUNSELOR

Newspapers, magazines, TV's, radios and the internet are barraging us with the words "economic recession," "layoffs," "budget cuts," "terrorism," and images of war and its deadly consequences. These words and images can, and often do, lead us to experience feelings of sadness, anxiety, worry, helplessness, and hopelessness. If we, or a loved one, are directly affected by any of the above national events we may be even more significantly impacted. How, during these times of economic and wartime uncertainty does one cope in the most effective manner?

Limit Your Exposure to the News

In our society information is available 24 hours a day. That much information can leave us feeling overwhelmed and emotionally drained. Be aware of how much you expose yourself to the TV and newspaper. If you normally watch the evening news, maybe you want to take a break from other news sources such as the daily newspaper or internet news. Or change the radio station if it feels like information overload.

Talk to Others

Don't be alone with your feelings! Talk to friends and family members about your worries and concerns.

Trying to maintain a "strong" face can often leave us feeling more alone and fearful.

Focus on What You Can Control

It's easy to get stuck on the negative thoughts of "what could be" or "what if." While a certain amount of "what-ifying" is normal, it is equally important that we not get stuck or dwell on what could go wrong. It is more helpful to focus on what we can change about our situation. For example, if you are concerned about a possible layoff, begin talking with your family and looking at how to reduce household costs now.

Use Positive Coping Tools

Be aware of how you take care of yourself and begin including positive daily routine into your schedule. Now is the time to exercise, relax with yoga or meditation, paint or draw, read, listen to music, look for humor or take a warm bath. It is important to not self-medicate with alcohol or mood altering substances during this time of uncertainty.

If you find yourself struggling with feelings of insecurity in these uncertain times, remember that you can call C-SEAP at 303-866-4314 or 1 800-821-8154.

C-SEAP OFFERING ANGER EDUCATION CLASSES

Do you feel irritable? Have you noticed having less patience with people or yelling more? Are you being told to "calm down" or that you always "seem so angry?" If so, C-SEAP's Anger Education class may help. We will focus on anger issues that affect our work and personal lives and how to better manage them.

DENVER FOUR-SESSION CLASS:

May 8, 15, 22 & 29

Sessions are 9:00 a.m. – 10:30 a.m. at 225 East 16th Avenue, Suite 600. Participants should plan to attend all sessions. Call 303-866-4314 or 1 800-821-8154 to register.

PUEBLO ONE-SESSION CLASS:

April 10

This session is from 10:00 a.m. – 4:00 p.m. at Pueblo Community College. Call 719-549-3079 or 1 800-821-8154 to register

Anger Education is also offered in other areas of the state on a periodic basis. Call C-SEAP at 303-866-4314 or 1 800-821-8154 for more information.

RISKY NEWS

WHERE WORKPLACE LITIGATION, INSURANCE, SAFETY AND LOSS CONTROL ARE IMPORTANT PERSONNEL MATTERS

COMPILED & EDITED BY TOM BELL
SAFETY & LOSS CONTROL SPECIALIST

OSHA ANNOUNCES NEW ERGONOMIC GUIDELINES

The Occupational Safety and Health Administration (OSHA) has released the first in a series of industry-specific guidelines for the prevention of musculoskeletal disorders in the workplace. OSHA's Guidelines for Nursing Homes focuses on practical recommendations for employers to reduce the number and severity of workplace injuries by using methods found to be successful in the nursing home environment.

The State of Colorado is not regulated by OSHA, but State Risk Management recommends using OSHA standards as guidelines whenever possible. The state operates several nursing homes and similar care facilities where these guidelines would be helpful.

The guidelines are divided into five sections: developing a process for protecting workers; identifying problems and implementing solutions for resident lifting and repositioning; identifying problems and implementing solutions for activities other than resident lifting and repositioning; training; and additional sources of information.

OSHA emphasizes that specific measures or guideline implementations may differ from site to site. Still, the agency recommends that all facilities minimize manual lifting of residents in all cases, and eliminate such lifting when feasible. OSHA encourages employers to implement a basic ergonomic process that provides management support while involving workers, identifying problems and implementing solutions, addressing reports of injuries, providing training and evaluating ergonomic efforts.

OSHA announced last April the agency's strategy to reduce ergonomic injuries. The four-pronged approach includes guidelines, enforcement, research, and outreach and assistance. In addition to nursing homes, the agency is preparing industry-specific guidelines for the retail grocery store and poultry processing industries.

OSHA is dedicated to assuring worker safety and health. Safety and health add value to business, the workplace, and life. For more information, visit www.osha.gov.

The guidelines are available at www.osha.gov/ergonomics/guidelines/nursinghome/index.html.

[x.html](#). Print copies will be available shortly. To order a copy, contact OSHA at (800) 321-OSHA.

From an OSHA press release

STUDY FINDS "INATTENTION BLINDNESS" IN BEHIND-THE-WHEEL CELL PHONE USERS

Talking on a cell phone can be dangerous while driving - even if you have a "hands off" cell phone attachment.

New research explains how cell phone conversations while driving become a potentially dangerous distraction. The study, by researchers David Strayer, Frank Drews and William Johnston at the University of Utah, titled "Cell Phone Use Can Lead to Inattention Blindness Behind the Wheel," shows that conversing on cell phones while driving disrupts the driver's attention to the visual environment, leading to what the authors call "inattention blindness," or the inability to recognize objects encountered in the driver's visual field.

In a previous study, the same authors found that conversing on cell phones while driving can lead to significant decreases in driving performance. The study found that driver distractions due to cell phone use can occur regardless of whether hand-held or hands-free cell phones are used, and that cell phone conversations create much higher levels of driver distractions than listening to the radio or audio books. The authors suggest that banning hand-held devices, but permitting hands-free devices in motor vehicles is not likely to significantly reduce driver distractions associated with cell phone conversations.

The new study, conducted at the University of Utah, used 20 participants in controlled, simulated driving conditions. A pdf version of a presentation on the study is available at www.psych.utah.edu/psych3120-classroom/09_23_02.pdf.

The authors suggest that even when participants are directing their gaze at objects in the driving environment, they may fail to "see" them when they are using a cell phone because attention is directed elsewhere. The data also suggests that legislative initiatives that restrict hand-held devices but permit

Please see "Risky News" on page 11

THE UNINSURED AMONG US

BY THE DPA EMPLOYEE BENEFITS UNIT

In February, DPA conducted a targeted survey of state employees not enrolled in the state medical plans for the 2003 plan year. A preliminary analysis of the results elicited a sigh of relief from Employee Benefits staff. It had been feared that a substantial number of employees who waived coverage in the state plans were forgoing coverage altogether since it has been widely reported that one in six Colorado residents is uninsured. Within the state employee population, the situation is not as bad as it was feared. Findings suggest that roughly 3% of all benefits eligible state employees have no medical coverage of any kind.

Although relatively few in number, those individuals who have no coverage of any kind are of particular concern. As a group, they are predominately male, married with children, a little younger than the insured group and have lower household income than the insured group. They also tend to live in small towns or rural areas. Few have coverage for their spouse or

children. They consider themselves and their spouses to be in good or excellent health.

Even though a profile of the "typical" uninsured employee emerged from the study, there were uninsured employees in every demographic category. The Employee Benefits unit was surprised to find that 15% of those with no coverage of any kind reported household income in excess of \$65,000. Of the uninsured respondents 19% are 50 or older and 10% reported poor or fair health.

The Employee Benefits unit will use its analysis of this survey data as part of its continuing efforts to evaluate its programs, and offer affordable and acceptable programs to all employees.

For more information about the survey, contact the Employee Benefits unit at 303-866-3434 or via email at benefits@state.co.us.

"Vehicle Use Guidelines" continued from page 1

his or her expense, which should be at least as much as the state's own liability limits. The state's liability limits are currently \$150,000 per person and \$600,000 per accident.

State vehicles are covered by SRM for liability in all 50 states. State vehicles may not be driven to Canada without prior written notification to the state fleet manager. Under no circumstances should a state vehicle be driven into Mexico. Departments taking vehicles out of the U.S. are responsible for obtaining any necessary liability and collision insurance at their expense, before the vehicle is taken across the border.

State departments should review the Division of Central Services Travel Management Program for current information on liability and collision coverage for rental and lease vehicles available by credit card or contract arrangements. The Travel Management Program credit card information is at www.state.co.us/dpa (Under Central Services).

For more information about insurance coverage on state vehicles or for a copy of the revised Vehicle Use Guidelines, contact State Risk Management at 303-866-3848 or 1 800-268-8092 or via email at benefits.risk@state.co.us.

"Are They Covered" continued from page 1

compensation coverage in the state where they live and work. If your department has any employees like this, you should immediately contact State Risk Management to ensure proper coverage.

One way a state department can avoid this problem is to use contract employees for out-of-state work. Independent contractors are not regarded as state employees and the state is usually not responsible for their workers' compensation coverage either in Colorado or other states.

An independent contractor* is defined in the Workers' Compensation Act as a person who is "free from control and direction in the performance of the service, both under the contract for performance of service and in fact and such individual is customarily engaged in an independent trade, occupation, profession, or business related to the service performed." Federal tax law also defines an independent contractor.

For further information on out-of-state workers' compensation coverage or other risk management issues, contact State Risk Management at 303-866-3848 or 1 800-268-8092, or via email at benefits.risk@state.co.us.

*For more information on independent contractors and personnel services contracts, contact the Total Compensation Systems unit at 303-866-2391 or via email at job.eval.comp@state.co.us.

family member of a person with BPSD, your work area is inevitably involved with this issue. Assertive, informed, and supportive managerial response to the possibility of an employee's BPSD increases the potential for positive outcome for the employee (improved productivity, increased self-respect and personal dignity), for his or her colleagues, for you as the manager, for the mission of the department, and for the bottom line.

Ten Effective Managerial Response Tips That Will Help Mitigate the Costs of BPSDs

1. Remember, the Employee Assistance Program is available to provide consultation and information on issues of behavioral health in the workplace. When concerned about an employee, contact us for an in-person or telephone consultation. This may be especially important when your employee does not acknowledge that there is a problem and refuses to seek help, or when the employee reports receiving services in the community but is showing no improvement in workplace function.
2. Don't forget that high (or recently increased) use of sick leave may reflect a Biopsychosocial Disorder or a non-mental health related disorder, such as diabetes or musculoskeletal problem, complicated by a BPSD.
3. The possible role of BPSD should also be considered in cases of erratic workplace behavior, chronic or extreme tardiness problems, disruptive interpersonal behavior, or marked decreases in productivity or work quality. Addressing a BPSD as a disciplinary problem is likely to backfire.
4. Communicate optimism to your employee regarding her ability to get appropriate help and improve. Your expectations, even if unvoiced, may be apparent to your employee and may strongly influence her motivation for cooperating with helpers. Remember: treatment works for the vast majority of individuals with BPSD.
5. In your role as a supervisor, never assume or conclude that there is a BPSD or venture a diagnosis. It is inappropriate to the supervisor/manager role.
6. Instead do express the concern, where you believe it is warranted, that 'personal distress' may be adversely affecting work performance, and voice your commitment to helping the employee use available resources, such as the EAP.
7. Remember: The vast majority of people with BPSD get no treatment, and many people with BPSD may not realize that they are suffering from something that can be treated. They will benefit from your gentle, non-judgmental, and private encouragement to use all the helping resources available.
8. Remind employees that the Colorado State Employee Assistance Program (C-SEAP) is a free benefit to them, and can help them via direct

counseling and, as necessary, referral to other providers. Provide CSEAP brochures to all your employees at least once per year (contact C-SEAP for brochures if you do not have any: 303-866-4314) or give the number directly to the employee. It is as simple as saying, "I want you to remember that there is an employee assistance program available to you at no cost. Here is their brochure. Why don't you give a call?"

9. Encourage your employee to seek assistance via their health providers and health insurance, as well.
10. Encourage all managers and supervisors to seek input from HR, and from the ADA specialist, when concern arises about possible disability due to BPSD. (And remember: the more effective we are at encouraging mental health intervention when needed, the less likely it is that a disability will occur!)

References:

- American Psychological Association* (1993). Why employers should be concerned about mental health. Online publication of APA Online, www.apa.org
- Geballe, S (2001). *The economic costs of mental illness & benefits of treatment*. A report of Connecticut Voices for Children.
- Iowa Department of Public Health (1997). Mental Health and Mental Disorders, in Healthy Iowans 2010.
- Kessler, RC, and Frank, RG (1997). *The impact of psychiatric disorders on work loss days*. Psychological Medicine 27(4).
- National Institutes of Mental Health (2001). *The Impact of Mental Illness on Society*. NIMH Publication No. 01-4586.
- For more information contact Jon Richard at 303-866-4723 or via email at jon.richard@state.co.us.

hands-free devices are not likely to eliminate the problems associated with using cell phones while driving. The problems are attributed in large part to the distracting effects of the phone conversations themselves, which direct attention away from the external environment and towards an internal, cognitive context associated with the phone conversation.

In a "Multitasking Statement" adopted by the National Safety Council in March 2001, the Council noted that "a driver's first responsibility is the safe operation of the vehicle" and that "best practice is to not use electronic devices including cell phones while driving" (www.nsc.org/news/policy/multitasking).

The issue of driver distractions caused by cellular phones becomes increasingly important as cell phone use becomes more prevalent in American life. According to studies conducted by the National Highway Traffic Safety Administration (NHTSA), some form of driver distraction is a contributing factor in 20 to 30 percent of all crashes. The Cellular Telecommunications and Internet Association estimates that there are currently 134.5 million cellular phones in operation in the United States, and a recent NHTSA survey found that nearly 75 percent of drivers reported using their phone while driving. A NHTSA observational study released in 2001 estimated that 500,000 drivers of passenger vehicles (cars, vans, sport utility vehicles, and pickups) are talking on hand-held cell phones during any given daytime moment throughout the week.

The two studies are part of a larger research project conducted by the University of Utah researchers. The results of the larger project will be published in the March 2003 issue of The Journal of Experimental Psychology (www.apa.org/journals/xap).

From a National Safety Council press release

Results: The employer was granted summary judgment. The court held that Loomis was not protected because she submitted false documentation. U.S. DOL regulations state that the job restoration provisions do not protect an employee who fraudulently obtains FMLA leave. Honda had published standards of conduct prohibiting employees from misrepresenting facts or falsifying records and she was fired for violating that standard twice.

Sanders v. May Department Stores (8th Circuit, Jan. 2003)

Facts: In the spring of 1998, Sanders informed May of her upcoming sex-change operation in June. She indicated that she intended to stop working at the end of April for required preparation for the surgery. A store representative told Sanders that the surgery and recovery might qualify for FMLA leave. Sanders declined the FMLA leave and insisted on resigning rather than providing medical certification of her condition. Ten months later, Sanders reapplied for a job with May and was given a different assignment. Two months later she was terminated for poor performance. Sanders sued claiming May ought to have given written notice of FMLA rights and that she did not voluntarily waive those rights.

Results: Employer upheld. The court found that Sanders had no claim to reinstatement to the job she held before voluntarily resigning. May presented evidence that it had informed Sanders of her rights and the Sanders acknowledged receiving the information in writing. It was not entirely clear whether Sanders gave enough information for the employer to understand she needed leave for a serious health condition. The court held that if Sanders failed to properly notify May of her need for leave, then the employer would be under no obligation to comply with the regulations.

If you have any questions, contact Laurie Benallo at laurie.benallo@state.co.us or 303-866-4247.